

Officer Involved Shooting of Feras Morad
Long Beach Police Department

Officer Matthew Hernandez, #6052

J.S.I.D. File #15-0279



JACKIE LACEY
District Attorney

Justice System Integrity Division
August 2, 2017

MEMORANDUM

TO: CHIEF ROBERT G. LUNA
Long Beach Police Department
400 West Broadway
Long Beach, California 90802

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

RE: Officer Involved Shooting of Feras Morad
J.S.I.D. File #15-0279
Long Beach P.D. File #15-32471

DATE: August 2, 2017

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the May 27, 2015, fatal shooting of Feras Morad by Long Beach Police Department (LBPD) Officer Matthew Hernandez. We find that there is insufficient evidence to prove beyond a reasonable doubt that Officer Hernandez did not act in lawful self-defense and in defense of others.

The District Attorney's Command Center was notified of this shooting on May 27, 2015, at 10:45 p.m. The District Attorney Response Team responded and was given a briefing and walk-through of the scene.

The following analysis is based on reports prepared by the LBPD Investigations Bureau, Homicide Detail, Lieutenant Lloyd Cox, and Detectives Mark Bigel and Malcolm Evans. The reports include photographs, audio-recorded interviews, and radio transmissions.

The voluntary statement of Officer Hernandez was also considered in this analysis.

FACTUAL ANALYSIS

Introduction

On May 27, 2015, at approximately 7:27 p.m., a 9-1-1 call was received in the City of Long Beach requesting paramedics and police respond to [REDACTED] East 15th Street in Long Beach, regarding an intoxicated man, later identified as Feras Morad. Morad reportedly fell out a second story window at [REDACTED] East 15th Street, was bloody, irate and walking aimlessly in an alley between 14th and 15th Streets.¹ The Long Beach Fire Department (LBFD) contacted LBPD and requested assistance with the call, indicating Morad was very drunk and violent, but believed to be unarmed.

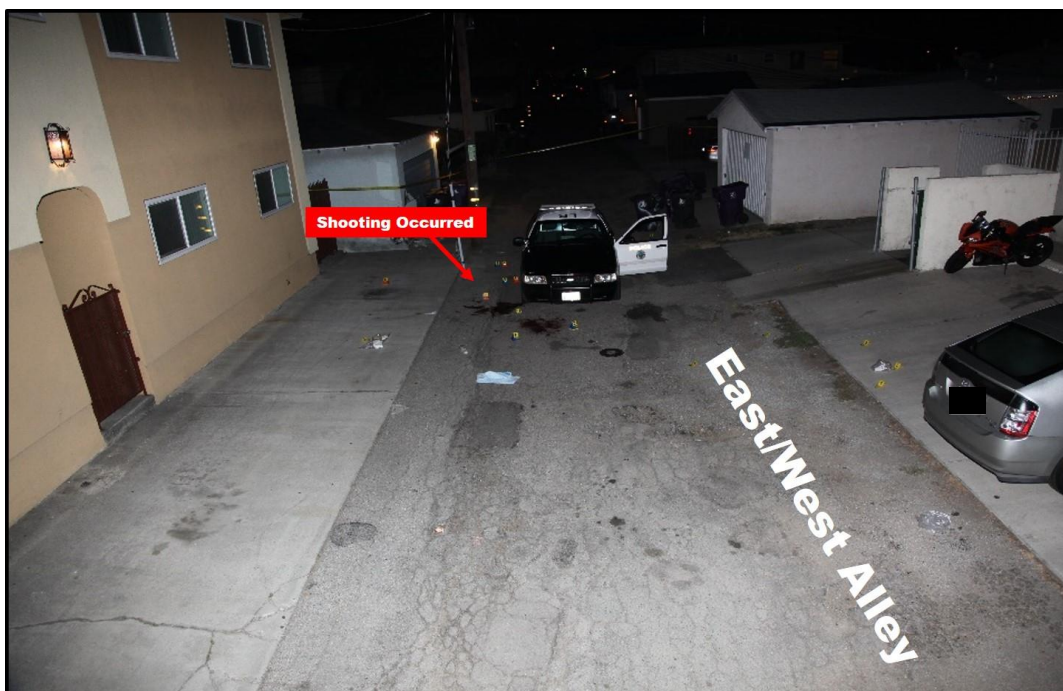
¹ [REDACTED] East 15th neighbors [REDACTED] East 15th Street to the east.

Shortly after 7:30 p.m., LBPD Officer Matthew Hernandez was dispatched to the call and arrived at the scene. Upon arrival, he observed Morad, who was shirtless, visibly injured and uncooperative. Hernandez attempted to detain Morad, but Morad was uncooperative and appeared to be under the influence of an unknown intoxicant. He was mumbling unintelligibly and in constant movement. After numerous commands to put his hands up, drop to the ground and stop advancing toward Hernandez, Hernandez deployed his Taser at Morad, with no effect. A second Taser deployment was also ineffective. After continued commands and several unsuccessful attempts to physically subdue Morad, Hernandez fired multiple rounds from his service weapon at Morad, resulting in Morad's death.

Location of Occurrence

█ East 15th Street is a two-story apartment building that is located on the northwest corner of an east/west alley between 14th Street and 15th Street. At the east end of the alley, it "T" intersects with a north/south alley that runs behind the west side of Roycroft Avenue. The shooting occurred in the east/west alley just west of the T intersection of the alleys.





Statement of Officer Matthew Hernandez²

On May 27, 2015, at approximately 7:31 p.m., while working uniformed patrol in a marked black and white LBPD patrol vehicle, Officer Matthew Hernandez was dispatched to the rear alley of [REDACTED] East 15th Street. LBFD had requested assistance in dealing with a violent subject, Feras Morad. According to the call, Morad had just fallen out a second story window.

As he approached the area, Hernandez drove eastbound on 15th Street from southbound Ximeno Avenue. He noticed a LBFD fire truck at the north end of the alley, to the rear of [REDACTED] Roycroft Avenue. Believing the fire truck would block his path into the area of the incident, Hernandez drove southbound in the north/south alley, south of 15th Street and east of Ximeno Avenue. He then turned eastbound in the east/west alley south of 15th Street, toward the location.

At approximately 7:34 p.m., Hernandez approached the apex of the east/west alley. He immediately noticed a LBFD rescue ambulance in the alley. Several firefighters were standing near or around the ambulance, and three men, Morad, Kamiran D. and Ryan F., were standing at the rear of [REDACTED] East 15th Street. Morad was not wearing a shirt.³ As Hernandez continued to drive eastbound, he saw Morad turn toward him while talking to the other two men. Morad appeared to have a large, open, vertical laceration to his upper arm. Most of his upper body and the left side of his lower body were covered with blood. Hernandez believed this injury was the result of Morad's fall from the second story window.

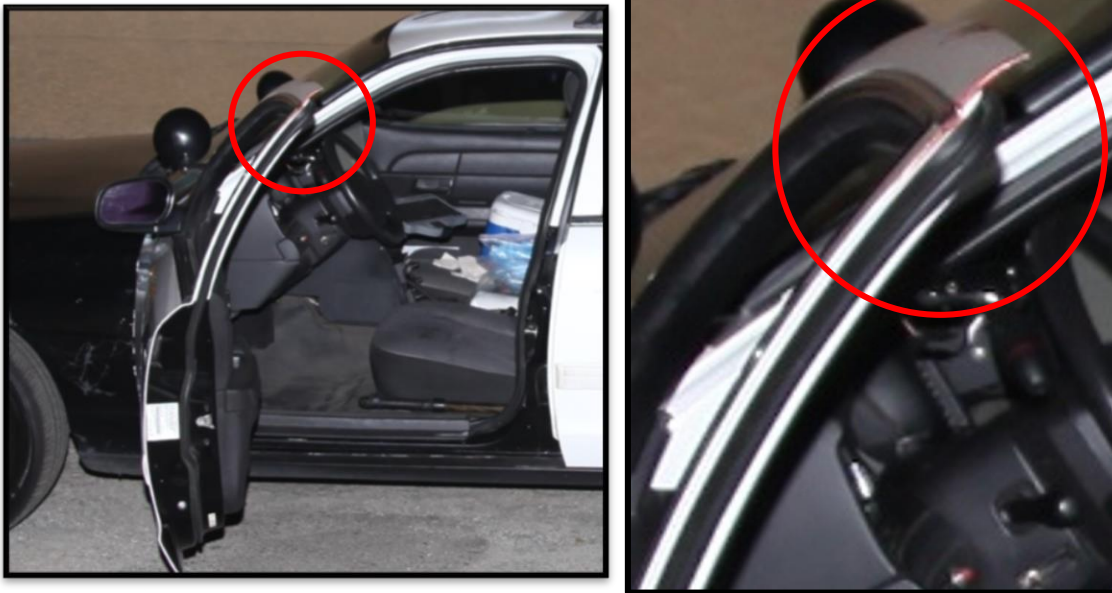
² Hernandez is five feet, seven inches tall and weighed approximately 200 pounds at the time of the incident.

³ Morad was five feet, nine inches tall and weighed 204 pounds.

As Hernandez continued eastbound in the alley, he stopped his patrol vehicle approximately 30 feet from where Morad, Kamiran D. and Ryan F. were standing. As he exited his vehicle, Morad immediately stopped communicating with the other men, looked at Hernandez, and began quickly walking toward Hernandez. Because of Morad's fast pace, Hernandez was unable to remove his baton from his vehicle or holster it into his baton ring, but was able to place his Pelican flashlight into his left rear pants pocket.

Once outside his patrol vehicle, Hernandez told Morad to relax and sit down so LBFD personnel could provide emergency medical aid. Morad did not stop and continued walking toward Hernandez at a faster pace, closing the distance between them to approximately 15 feet. Morad was walking in a stumbling manner toward Hernandez, while swinging both arms in an "uncontrollable and potentially assaultive and aggressive manner." Both of Morad's hands were clenched into closed fists, as he violently and uncontrollably swung both arms and continued to advance toward Hernandez.

Based on his training and experience, as well as the original dispatch call, which stated that Morad was acting violently, Hernandez formed the opinion that Morad may be under the influence of drugs and was trying to assault him. As Morad walked toward Hernandez, he was yelling something unintelligible. In a clear and loud voice, Hernandez ordered Morad to calm down, stop swinging his arms toward Hernandez, and sit down so LBFD personnel could treat his injury. Morad continued to ignore his commands and came closer to Hernandez. Morad's left shoulder and upper body hit the open driver's side door of the patrol car, which had remained open upon Hernandez's exit. Morad made no attempt to walk around it or avoid it. This action further convinced Hernandez that Morad was intent upon engaging in a physical altercation with Hernandez.



Blood smeared on Hernandez's police car.

Believing Morad was a threat to his safety, as well as the safety of LBFD personnel and others in the immediate area, Hernandez removed his Taser from its holster and continued to order Morad to calm down, stop swinging his arms, and sit down so LBFD personnel could treat his injury. Hernandez pointed the Taser directly at Morad's chest and retreated a few steps toward the rear of his police vehicle to create space between Morad and himself and allow adequate distance for a Taser deployment.

Morad continued to advance toward Hernandez. Hernandez gave him clear verbal orders to stop and put his hands up in the air. Hernandez noticed Kamiran D. and Ryan F. in the background behind Morad. Both were yelling, "Dude, put your hands up! Just put your hands up! Stop and put your hands up!" They put their hands straight above their heads as they yelled at Morad to do the same. Despite Hernandez's orders and the pleas of his two friends, Morad did not stop. When Morad came within seven to ten feet of Hernandez, Hernandez tased Morad for a five-second cycle. The Taser had little effect on Morad and he only paused momentarily. Hernandez had prior experience with this type of Taser result where the suspect was under the influence of cocaine.

Morad continued to walk toward Hernandez, swinging his arms with clenched fists, which prevented Hernandez from getting close enough to Morad to try and take physical control over him without potentially being violently assaulted. Hernandez holstered his Taser without dropping the used cartridge and reloading a new cartridge. Morad continued swinging his arms in a wild and uncontrollable manner in all directions, with clenched fists. Morad walked around the rear of the police vehicle. Hernandez quickly ran around the rear of the vehicle, along the passenger side, to cut off Morad's possible route of escape. Hernandez believed that if Morad was not prevented from escaping, he could cause harm to other people, including LBFD personnel.

Hernandez gave Morad loud verbal commands to get down on the ground so that he could affect an arrest for being under the influence of a controlled substance and resisting arrest, and also to allow LBFD personnel to treat him for his injury. Morad leaned against the rear passenger door and rear quarter panel area, facing the vehicle, with his back to Hernandez. He placed his lower body against the vehicle with his upper body leaning over the trunk area of the vehicle and was no longer swinging his arms.

Morad began slowly lowering to both knees. Hernandez approached and took hold of Morad's rear belt and pants with both his hands. Hernandez pulled Morad's lower body toward him and away from the patrol vehicle, while Morad's upper body was still leaning against the vehicle. Hernandez believed he could force Morad off balance and place him face down on the pavement, giving Hernandez an advantage to position himself where he could physically control Morad. Hernandez continued to give Morad verbal commands to get down on the ground and stay down, but Morad did not comply with his orders.

Morad reacted to Hernandez's actions by putting his hands down to brace his fall. Morad did not completely lose his balance and quickly rolled over onto his buttocks to face Hernandez. Morad jumped to his feet, regained his balance, and began to quickly walk away from Hernandez, toward the rear of the police vehicle.

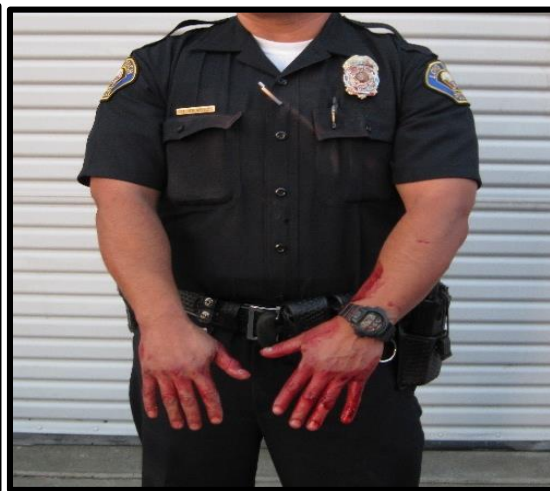
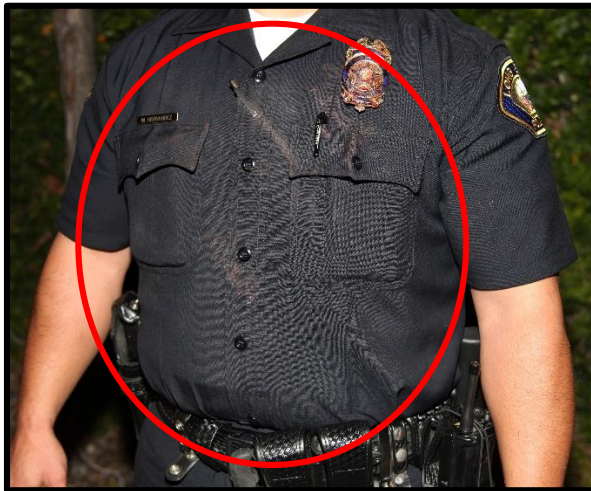
Hernandez followed Morad. Morad was screaming, but Hernandez was unable to discern what he was saying or if he was yelling at Hernandez or someone else. As Morad continued to walk away from Hernandez in the alley, Hernandez observed Morad look back over his shoulder to “assess [Hernandez’s] position.” Morad continued to swing his arms in a violent and assaultive manner with his fists clenched. Hernandez believed Morad was purposefully swinging his arms in this manner to prevent Hernandez from taking control of his arms and taking him into custody.

Hernandez removed his Taser from its holster and attempted to remove the old cartridge and reload a new cartridge, which was attached to the handle of the Taser, but Hernandez accidentally removed and discarded the new cartridge on the ground. Hernandez immediately realized his mistake and visually located the cartridge on the ground. As Morad walked toward the driver’s side rear corner of the police vehicle, he slightly kicked the cartridge. Hernandez reached down and recovered the unused cartridge and loaded it into his Taser while Morad continued to walk away from him.

Hernandez observed LBFD personnel at the “T” area of the north/south alley rear of [REDACTED] Roycroft Avenue. Hernandez believed that if he did not prevent Morad’s escape, Morad could potentially physically assault one of them. When Morad was approximately five feet away from Hernandez, Hernandez deployed his Taser a second time for a five-second cycle. Morad was almost in direct contact with the patrol vehicle when Hernandez deployed the Taser.

Morad again showed little response to the Taser, but was slightly off balance. Hernandez attempted to holster his Taser, but dropped it. Hernandez approached Morad and used his right leg to sweep Morad’s right lower leg, causing Morad to fall to the ground on his right knee. Morad maintained his balance by holding onto the driver’s side rear bumper. While Hernandez had a brief moment of advantage, he attempted to use the force of his body to pin Morad against the police vehicle and take him into custody. He pushed Morad, chest first, into the rear bumper of the police car. Hernandez grabbed Morad’s left arm with his left hand and forced it behind Morad’s back in a rear wrist lock. Since Morad’s body was covered in blood from his injury, his body was slippery. Hernandez continued to use his body weight to push Morad against the police car. Morad raised his left arm in front of him, looked back at Hernandez, and swung his arm and elbow back toward Hernandez’s head.

As Hernandez fought to maintain this position of advantage, he lost control of his handcuffs and the handcuffs fell to the ground. Morad then used the police vehicle as leverage and pushed away from the vehicle with both hands. Morad stood up and pushed Hernandez away from him. Morad did this by swinging his arms in a violent and aggressive manner with his fists clenched toward Hernandez.



Pictures of Hernandez depicting blood on his hands and uniform.

Morad walked around the passenger side of the police vehicle and sat down on the ground in the alleyway across from [REDACTED] East 15th Street. Morad had his legs positioned in a “triangle position to the ground” with his feet flat and his hands supporting his weight behind him. Hernandez believed Morad was ready to submit to arrest and stop resisting. Hernandez unholstered his service weapon, a HK .45 caliber semiautomatic handgun. He believed he could hold Morad in a seated position at gunpoint while waiting for additional LBPD officers to arrive.⁴

Hernandez further believed if “Morad stood up from his seated position and began to move toward [him] in a violent and aggressive manner, by uncontrollably swinging his arms around his person with clenched and closed fists as he had previously done during the incident, [he] would be forced to use lethal force to prevent Morad from violently and aggressively assaulting [him].”

⁴ Hernandez did not request assistance from other LBPD officers due to the nature of the incident. However, he believed that additional officers were requested. There was a call in for assistance that was requested by LBFD Captain Grego.

Hernandez's personal defense tactics were limited since he no longer had his Taser and his attempts at using physical force to apprehend Morad had been unsuccessful.

Hernandez pointed his gun at Morad with the intention of maintaining that level of force until assistance arrived. He continued to give Morad verbal orders to stay down and lie face down on the ground. Hernandez was standing almost directly in front of the police vehicle, approximately 20 feet away from Morad. Morad did not appear to focus or understand the commands. He stood up and looked directly at Hernandez. Morad's lips were moving, but Hernandez did not hear any words or sounds. Hernandez gave Morad commands to get down and put his hands up. Morad began to advance toward Hernandez "quickly and aggressively." His pace was faster than it was earlier. His stride appeared to be longer and his body appeared to be at a slightly lower center of gravity. His eyes and attention were focused directly on Hernandez. As Morad moved closer to Hernandez, Hernandez noticed that Morad was also slightly leaning forward and toward him.

Morad began to swing his arms and clenched fists directly in front of him. Hernandez was standing in front of Morad and Morad was yelling something unintelligible at Hernandez. Morad approached the front passenger side corner of the police vehicle and Hernandez moved slightly toward the driver's side. Morad was closing the distance between them quickly. Hernandez's flashlight was in his left rear pocket, but retrieving it would have required Hernandez to "relinquish all of [his] personal safety space to Morad who had exhibited an extremely high tolerance for pain and continued to swing his arms violently and aggressively toward [Hernandez] as he advanced toward [him]."

Morad was approximately seven to ten feet away from Hernandez, approaching from the front passenger corner of the vehicle. He appeared to be watching Hernandez's every move and tracking his physical position. Hernandez believed that if Morad came any closer, Morad would physically assault him and "easily attempt to grab [his] duty weapon."

Based on Morad's visual focus on Hernandez, his new body position, his quickened pace, his quickly diminishing distance from Hernandez and the fact that his swinging arms were "focused" in Hernandez's direction, when Morad came to approximately five to seven feet from Hernandez, Hernandez feared for his life. He pulled the trigger one time, but his weapon failed to discharge. Hernandez realized he had not de-cocked the thumb-safety. Suddenly and simultaneously, Morad changed directions and stopped walking toward Hernandez. He began to walk toward the rear of the police vehicle. Hernandez immediately re-holstered his weapon and continued to give verbal commands to Morad to put his hands up.

Hernandez quickly "gave chase" as Morad started to walk away from Hernandez. Morad leaned against the front passenger side window with his right hand against the window. Hernandez saw an opportunity to subdue Morad as he was not fixated on Hernandez at that moment. Hernandez removed his flashlight from his left rear pocket while continuing to give Morad commands to get down on the ground. Holding the flashlight in his right hand, Hernandez swung it at Morad and struck him in the right lower leg. Morad reached down to his leg and grabbed it with his right hand. Hernandez replaced his flashlight in his rear pocket.

Morad walked back to the same area where he first sat down and sat in the same manner as he had before. Hernandez called dispatch and asked for additional LBPB police officers to respond “Code 3” for immediate emergency assistance. He believed that if additional officers arrived while Morad was still seated, they could take physical custody of him without further incident.

While waiting for additional officers to arrive, Hernandez removed his duty weapon from his holster as a form of ‘visual deterrence.’ He pointed the gun at Morad. Hernandez believed that this show of force and continued verbal commands would give him an opportunity to maintain a position of advantage over Morad. Hernandez ordered Morad to stay down and lie face down on the ground several times. Morad did not comply and stood up from his seated position.

Hernandez was approximately 15 feet from Morad when Morad stood up. Hernandez was standing in front of the passenger side front corner of the police vehicle. Morad looked directly at Hernandez and began to walk quickly toward him. Hernandez ordered him to stop and put his hands up. Morad’s eyes became fixated on Hernandez. Morad raised his hands into a “classic” fighting position with his closed fists turned upward near the bottom of his chin. His forearms and elbows were tucked slightly toward the middle of his torso.

Morad’s facial expression was changed from earlier in the incident. He appeared angrier and more hostile toward Hernandez. Hernandez told him to stop and put his hands up, while pointing his service weapon at Morad. Again, he ordered Morad to stop and put his hands up. Morad did not respond. Hernandez told Morad he was going to shoot him if he did not stop and put his hands up. Morad continued to walk quickly and aggressively toward Hernandez in a fighting position. Morad yelled at Hernandez, in a clear and angry tone, “I’m coming to get you!” and continued advancing toward Hernandez.

Hernandez heard voices coming from various locations saying, “Just put your hands up! Stop, don’t do it! Just do what he tells you! Dude, stop! Put your hands up!” Morad ignored all those pleas. Hernandez had exhausted all of his non-lethal force options. Hernandez believed that if he were to get involved in a “full-blown, knock-down, drag out, street fight” with Morad, he would be injured, Morad would overpower him, disarm him and kill him with his hands, or his own service weapon. “Morad had proven over the course of the incident that he had an extremely high tolerance for pain, the ability to continue ‘fighting’ despite being injured, the physical strength to prevent [Hernandez] from taking him into custody and a high level of stamina to continue to resist throughout the encounter.”

As Morad closed the distance between himself and Hernandez to approximately five to seven feet, Hernandez pointed his firearm at Morad and gave Morad a final verbal order to stop and put his hands up. Morad did not stop or respond. Hernandez then fired four to five rounds at Morad, causing Morad to fall to the ground. Hernandez handcuffed Morad and an unknown LBFD firefighter rendered emergency aid to Morad.⁵

⁵ Hernandez made a subsequent statement on May 31, 2015, “after having two full days of sleep and time to decompress mentally and physically” after the incident. Hernandez recalled additional facts relating to the shooting. Immediately following Hernandez’s loss of control of Morad’s left hand and wrist because of how slippery it was from the blood, Hernandez recalled that Morad raised his left arm from in front of him, looked back toward Hernandez to determine Hernandez’s physical position and swung his arm and elbow back toward Hernandez’s head. Hernandez recalls Morad’s elbow swinging behind Morad, but over the top of Hernandez’s head, without

Witnesses Statements

Statement of Kamiran D.

On May 27, 2015, Ryan F. and Feras Morad arrived at Kamiran D.'s apartment located at [REDACTED] East 15th Street, between 2:45 p.m. and 3:00 p.m. They were on the debate team at California State University Long Beach and met that day to practice debate "drills." After practicing for approximately an hour and a half, they spent time together and smoked flavored tobacco from a "hookah."⁶

At one point, they left Kamiran D.'s apartment and walked to Burger King to purchase food. When they returned, they sat outside in the patio area to eat their food, but Morad began acting strangely and "seemed out of it." Morad asked Kamiran D. and Ryan F. "where he was" or "what is this?" When they went back into the apartment, Morad was "really freaking out." Kamiran D. and Ryan F. tried to "constrain" and calm him down, but Morad stated, "I'm messed up. I'm on drugs."

While inside the apartment, Morad grabbed the blinds, ran upstairs, began throwing objects around the apartment and knocked over the hookah and some chairs. After five to twelve minutes of Kamiran D. and Ryan F. "wrestling" around the apartment with Morad, Morad jumped through the glass of a second story window in Kamiran D.'s apartment. Kamiran D. and Ryan F. ran outside and noticed that Morad's arm was "cut open," but he got up and started running away. Kamiran D. attempted to call 9-1-1, but could not hear the operator so he hung up and ran after Morad.

Kamiran D. and Ryan F. chased Morad around the immediate area and tried to restrain him approximately 10 to 20 times. They tried "constantly" for about a five-minute period. They tried to "bear hug" and "full Nelson" Morad, but he "overpowered" them.

During the struggle, Morad went into a neighbor's yard and grabbed things in the yard. Kamiran D. apologized to the neighbor and asked her to call 9-1-1. The neighbor replied that the police were on their way. Kamiran D. and Ryan F. continued their attempts to restrain Morad, but he continued running around the area and jumped on top of a moving car that was travelling down the adjacent alley. Kamiran D. and Ryan F. pulled Morad off the vehicle.

A LBPD officer, later identified as Hernandez, arrived at the location and immediately exited his patrol vehicle. Hernandez said, "Put your hands in the air!" but Morad was "mumbling" and "walking around." Kamiran D. and Ryan F. yelled at Morad to put his hands up and cooperate. Hernandez told Kamiran D. and Ryan F. to step back and they complied. Hernandez deployed his Taser at Morad, but it appeared as though only one of the "pegs" made contact and had no effect on Morad. Morad continued wandering around "aimlessly" in a non-threatening manner.

making contact. Hernandez also recalled swinging his flashlight and striking Morad in the lower right leg. Hernandez felt an excruciating and intense burning sensation to his left outer calf. The pain lasted for a brief moment. Hernandez first noticed a strain to his left outer calf on May 28, 2015, but did not report the injury until May 30, 2015.

⁶ "Hookah" is a device that is used to smoke tobacco or cannabis.

Hernandez put his hand on his gun, which was in its holster, and “kind of pulled it out” while trying to get the Taser ready.

Hernandez told Morad, “Keep your hands up!” but Morad did not comply. Morad did not look like he was trying to “aggress” anyone, but appeared confused and incoherent. It seemed as though Morad did not realize Hernandez was a police officer and did not notice his surroundings.

Kamiran D. was not clear on what occurred first, but he saw Hernandez use his Taser a second time. Again, Morad did not go down. At one point, Hernandez told Morad to get on the ground and Hernandez may have had Morad on the ground, but it was unclear whether Morad had fallen. It also appeared Morad “jumped on the back hood area” of the patrol vehicle.

Morad continued to wander around like a “zombie” and Hernandez continued to tell Morad to keep his hands up, not move, and get on the ground. Hernandez removed his service weapon from his holster and Kamiran D. and Ryan F. yelled, “Don’t shoot!” Morad stood still. Hernandez was pointing his service weapon at Morad, telling him to get on the ground, when paramedics personnel told Kamiran D. and Ryan F. to go “around the corner.” Kamiran D. and Ryan F. complied. Kamiran D. did not see Morad make any sudden movements, or reach for his pockets or waistband before they were asked to leave. Ten to 30 seconds after walking away from the location, Kamiran D. heard three consecutive gunshots.

Statement of Ryan F.

On May 27, 2015, Ryan F. and Morad drove to the home of Kamiran D. in Long Beach. Ryan F. and Morad were transferring to CSULB and were going to be on the debate team. They went to Kamiran D.’s home to practice debate.

While practicing, Ryan F. noticed Morad was acting “kind of weird.” Morad told Ryan F. and Kamiran D. he was “fucked up.” Ryan F. did not see Morad ingest anything and Morad appeared normal on the drive to Long Beach, but Morad’s behavior became increasingly unusual. Morad was not making sense and began pacing around the apartment. Because of Morad’s behavior, they were unable to finish the debate speech they were practicing.⁷

Ryan F. and Kamiran D. tried to get Morad to lay on Kamiran D.’s bed, but Morad began pacing more vigorously, babbling, bumping into things and knocking them to the ground. Morad seemed lost and uncomfortable. Ryan F. and Kamiran D. decided to take Morad outside for fresh air and to purchase food in hopes that he would feel better.

Ryan F., Morad and Kamiran D. walked to Burger King to purchase food. When they returned, they sat in the front patio area. Morad was throwing his food and unable to eat. He was acting “erratically,” would get up and sit down and eventually went back inside the apartment. Ryan F. and Kamiran D. followed him inside and tried to get him to lie down and relax, but he would not comply.

⁷ Ryan F., Morad and Kamiran D. smoked flavored tobacco from a hookah earlier, but they had smoked it on prior occasions and it “wasn’t a big deal.”

Morad ripped some blinds off Kamiran D.'s window and started "flailing around." Ryan F. tried to grab Morad, but Morad bit him on the arm. Morad started running around the apartment and bumping into things. Morad was moving slowly, like a "zombie," and speaking incoherently. Morad jumped onto the couch and over the railing to the interior stairs. Ryan F. and Kamiran D. picked Morad up and took him to Kamiran D.'s bed. They tried to restrain him to get him to calm down, but were unsuccessful. Morad was "pretty big and strong so he got out of [their] grasp and ran." Morad jumped onto a coffee table, bounced off the couch and "dove" through a second story window.

Ryan F. and Kamiran D. ran downstairs to check on Morad. By the time they exited the apartment, Morad was up and running around the alley, despite having been injured in the fall. Kamiran D. asked a neighbor who was outside their apartment to call 9-1-1. Morad was covered in blood, running around in the alley "sporadically," saying things that made no sense, "babbling," and climbing on top of cars. There was a vehicle driving past them and Ryan F. and Kamiran D. pulled Morad out of the way. Morad broke free and "belly flopped" onto the vehicle's front windshield. Ryan F. pulled Morad off the vehicle. Morad also ran into a neighboring yard.

Ryan F. and Kamiran D. tried to keep a safe distance from Morad as he had bitten Ryan F. and swung at Kamiran D. earlier, but also tried to keep him "contained" until the police arrived. Morad remained in the alley and had a "huge gash" on his left shoulder. Ryan F. and Kamiran D. tried to get Morad to sit down, but he continued to run around.

Hernandez arrived in a marked police vehicle and drove up the alley. He exited the vehicle with his Taser drawn. Ryan F. and Kamiran D. backed out of the way, but Morad tried to climb on top of the police vehicle. Ryan F. was not sure if Morad fell off the vehicle or Hernandez pushed him off. Morad was shirtless and started walking toward Hernandez. Hernandez yelled, "Put your hands up! Put your hands up!" Ryan F. and Kamiran D. put their hands up and told Morad, "Put your hands up. He's trying to help you."

Morad continued to advance toward Hernandez. Hernandez deployed his Taser, but it had no effect on Morad. Morad was not trying to hurt Hernandez, but he kept moving forward toward him. Hernandez said, "Stay away from me!" as Morad came in close proximity to Hernandez. Hernandez tried to pin Morad against the trunk of the police car and Morad "sort of fell to the ground." During the scuffle, Morad was able to get up again. However, "Morad was not acting violent or aggressively toward anyone. He was just unaware of his surroundings or actions. He looked confused, trying to figure something out."

Morad walked around to the other side of the patrol vehicle. Ryan F. heard a second Taser deployment, but did not see it. Again, the Taser did not have any effect on Morad, as he continued to move around "aimlessly," not listening to Hernandez's commands.

After the second Taser attempt, Hernandez retrieved his gun. Ryan F. and Kamiran D. yelled, "Don't shoot! Don't shoot! He's not armed!" A firefighter standing nearby told Ryan F. and Kamiran D. to leave the immediate area and go around the corner. Ryan F. and Kamiran D. walked away. Ryan F. heard three successive gunshots, but did not see the shooting.

Statement of Bob G.

On May 27, 2015, Bob G. was sitting in his car in an alley near his home located on Roycroft Avenue, when he heard voices. He looked in his rear view mirror and saw Ryan F., Morad, and Kamiran D., whom he recognized as a tenant at the apartment complex. Bob G. saw them walking toward a shopping center and described them as “not being in a normal state of mind.” All three were “lit up and I don’t mean drinking.” They were speaking in a language that Bob G. could not understand. It took them 20 minutes to walk to the shopping center. They were “tripping.”

Approximately 20-30 minutes later, Bob G. was at his residence when he heard them return. They were loud and boisterous. Shortly after, Bob G. heard the sound of a fire truck and saw a LBFD engine drive past his residence, come back and park on the wrong side of the street, blocking the alley. Bob G. went outside to see what was going on. He heard a loud voice saying, “I said get down!” and saw Morad covered in blood from “head to toe,” trying to put his hands up. Hernandez was backing up while giving commands to Morad to “get down.”

Bob G. heard the sound of a Taser and saw it had no effect on Morad. Morad was advancing toward Hernandez, as Hernandez continued to back up.⁸ Hernandez continued to give Morad verbal commands to get on the ground. Hernandez deployed the Taser a second time with “zero effect.” Morad did not say anything. He was acting like the “walking dead, like in the zombie movies.” Morad did not attempt to grab Hernandez, but he kept advancing toward him as Hernandez continued to back up.

Hernandez drew his gun and LBFD personnel told Bob G. and other bystanders to back up. Bob G. heard four rapid gunshots and Morad fell backwards. Morad was still standing prior to the gunshots, but went to the ground after Hernandez fired. Shortly after, additional police units arrived and secured the area.

Statement of Brianna D.

On May 27, 2015, Brianna D. was inside her apartment preparing food when she heard a loud crash and glass shattering at the apartment complex just east of her residence. Brianna D. went outside and heard two male voices yelling at a third male, “What the heck man?” “Call 9-1-1!” “Get back inside the house now!”

Brianna D. walked to the rear of the complex with two friends and her attention was drawn to a man who was standing east of her using his cell phone. Brianna D. asked the man if he needed her to call 9-1-1 and the man frantically replied, “Yes, please! I can’t understand this operator!”

As Brianna D. dialed 9-1-1, she noticed Morad, who was bloody and shirtless, fighting another man who was wearing a hat. Morad seemed “completely enraged,” “drugged out of his mind,” and “completely out of control.” The man in the hat had Morad in a “bear hug,” trying to restrain him, but Morad slipped out of his grasp. All of a sudden, Morad seemed to focus on Brianna D. and her friends. Morad “looked deranged and his eyes looked like they were rolled

⁸ Bob G. believed Hernandez looked “really small” compared to Morad.

into the back of his head as he started walking” toward them. Afraid for their safety, they ran back inside her apartment and locked the security screen behind them. Morad was mumbling unintelligibly. Brianna D. advised the 9-1-1 operator that they needed an ambulance and police as quickly as possible.

Brianna D. left the wooden front door of her residence open so she and her friends could keep an eye on Morad. Morad entered her patio area and sat for a few seconds before leaning forward so far that he collapsed the chair and fell head first into the bushes. Morad came to his feet and walked near her kitchen window. While staring into the window, Morad fell forward, hit his head on the glass, and fell into an artificial palm tree. Morad got up and attempted to sit against Brianna’s east block wall, but was only able to lean against it for a few seconds before falling into a dirt planter. Ryan F. and Kamiran D. entered the patio and picked Morad up from the planter. Morad “freaked out,” and ran back to the parking area, jumped on a parked vehicle and ran circles around other parked vehicles.

Brianna D. heard sirens approaching from a distance. Shortly after, she heard three separate voices yelling repeatedly, over and over at Morad, “Get on the ground!” “Stop!” and “Stop resisting!” Brianna D. also heard Ryan F. and Kamiran D. yelling at Morad, “Listen to them! Just calm down and comply!” She then heard what she believed to be a Taser being deployed. At the same time, she heard two male voices yelling at Ryan F. and Kamiran D. to “Get back!” Approximately ten to fifteen seconds later, Brianna D. heard approximately three to four gunshots and more sirens coming from a distance.⁹

Statement of Marshaun J.

On May 27, 2015, Marshaun J. was at her home on East 14th Street in Long Beach, celebrating her daughter’s birthday with her ex-husband, David J. They were barbequing in her backyard when she heard a commotion in the nearby alley. She heard someone repeatedly say, “Put your hands up!” and looked north, down the alley where she saw a police vehicle. She asked David J. to accompany her to see what was happening. While in her backyard, she heard the sound of a Taser deploying.

Marshaun J. and David J. ran to the north security gate and saw Hernandez and Morad on the driver’s side of the police vehicle. It appeared that they had both just gotten up from the ground. Hernandez and Morad moved to the trunk area of the police vehicle.¹⁰ Morad “kind of tackled” Hernandez, taking him to the back of the car. Morad moved slowly and was obviously stronger than Hernandez. Hernandez was able to get away and Marshaun J. heard the sound of a second Taser deployment, which had no effect on Morad; “It didn’t even phase him.”¹¹

Marshaun J. was approximately eight to 12 feet from Hernandez and Morad throughout the incident. Morad appeared to be under the influence of “bath salts.” He was shirtless and bloody, and “growling” rather than talking. His eyes were wandering and not focused, as if

⁹ Brianna D. only heard the Taser deployment and the shots fired. She did not witness the encounter between Morad and Hernandez.

¹⁰ From Marshaun J.’s vantage point, she could only see the back half of the police vehicle.

¹¹ Marshaun J. estimated approximately 30-45 seconds between the first and second Taser deployment.

nothing made sense to him. Hernandez told Morad countless times to, “Stop! Put your hands up,” but Morad did not comply.¹² Morad’s actions were “zombie-like” and he appeared as though he were “in a fight for his life and had to keep going.” He was “completely out of the realm of reality.”

Morad kept “going after” Hernandez, but his movements were slow. He aggressively advanced toward Hernandez as Hernandez repeatedly yelled, “Put your hands up!” and backed away from him. Marshaun J. did not see any “use of force” by Hernandez other than when Hernandez tried to free himself from Morad’s grasp. Hernandez tried to maintain distance throughout the encounter, including during the Taser deployment.

After the second Taser deployment, Hernandez drew his weapon and stated, “Stop or I’m going to shoot you!” As Hernandez gave these verbal commands, Morad paused momentarily, but then continued to advance toward Hernandez. Hernandez backed away and continued giving verbal commands to Morad, until Hernandez and Morad were no longer in Marshaun J.’s view. There was a period of silence for approximately ten seconds when she heard someone say, “Don’t shoot me! Don’t shoot me!” Immediately after, Marshaun J. heard four gunshots. Marshaun J. believed Hernandez did not have any choice other than to shoot Morad, as Hernandez had an obligation to stop him.¹³

Statement of David J.

On May 27, 2015, David J. was celebrating his daughter’s birthday at Marshaun J.’s house in Long Beach. He was in the backyard when he heard scuffling in the alley. He looked through a mesh gate separating the alley from the backyard and saw the rear end of a police vehicle. He heard yelling and the sound of a Taser being deployed. He saw Morad, who was shirtless, bloody and visibly injured with a large cut on his left arm. He also saw Hernandez, who had blood on his police uniform.

The Taser appeared to have no effect on Morad. Morad pushed Hernandez into the back of the police vehicle. Hernandez was trying to fight back, while distancing himself from Morad. Hernandez and Morad moved around the back of the police vehicle and were very close to each other, as if they were wrestling. Hernandez attempted to hold Morad down against the patrol vehicle, but Morad was flailing around, resisting Hernandez. Morad had his hands up, batting at Hernandez, and advancing toward him. Hernandez tried to get Morad to the ground, but was not successful.

Morad was not saying anything until after he was tased a second time. Morad looked down at the probes, looked at Hernandez and said, “Oh, is that how it’s going to be?”¹⁴ Morad became more aggressive after the second tase. He walked toward Hernandez and attempted to grab him. Hernandez drew his weapon while walking backwards away from Morad, and stated, “Stop or I’ll shoot.” Morad moved forward aggressively while Hernandez continued to retreat backwards

¹² Marshaun J. estimated Hernandez gave verbal commands to Morad over 30 times.

¹³ Marshaun J. told investigators, “If I was that officer, I would have shot him too.” She felt Morad could have threatened her or someone else and appeared to be very dangerous.

¹⁴ David J. estimated a minute and a half between the two Taser deployments.

and stated, "Get down on the ground!" Morad appeared out of his mind, as if he "was on something," and was walking around like a "zombie." Morad was overpowering Hernandez and David J. did not understand why Hernandez was alone. David J. felt he would possibly have to intervene to assist Hernandez.

Hernandez and Morad were approximately three feet from each other when Hernandez pointed his gun at Morad's chest. Morad seemed to hesitate and "winced" for a second, as if realizing momentarily that a gun was pointed in his direction, but continued to move forward toward Hernandez. At this point, David J. pulled Marshaun J. away and could no longer see Hernandez and Morad. Approximately 40 to 50 seconds later, David J. heard gunshots.¹⁵

Statement of Sopheary D.

On May 27, 2015, at approximately 6:30 p.m., Sopheary D. was in her bedroom when she heard a commotion outside her apartment. She looked out her window, which faces east and overlooks the alley where the incident occurred, and saw Hernandez and Morad in the alley.¹⁶ They were on the passenger side of a police vehicle, near the trunk area. They were facing each other and Hernandez was yelling, "Put your hands up!" Morad appeared to be under the influence and was not complying. Hernandez was pointing a gun at Morad and stated, "I will shoot if you don't you know, put your hands up."

Hernandez stated several times, "If you're not gonna like listen, I will have to shoot." Hernandez continued telling Morad to put his arms up, but Morad would not comply. Morad would get down but get back up, and seemed confused. At one point, Morad was on the ground and Hernandez was trying to pin him down, but Morad broke free and stood up. It appeared Hernandez was trying to handcuff Morad near the trunk of the police vehicle, but was unsuccessful.

Hernandez deployed his Taser at Morad twice. The first tase did not seem to effect Morad, as he remained standing. Hernandez continued giving verbal commands to Morad, but he was still non-compliant and in constant movement, getting up and trying to get away. Hernandez attempted to subdue Morad a few times before tasing him a second time, but his attempts failed. It seemed it was difficult for Hernandez to pin Morad down. Hernandez tried to hold him down, but Morad kept getting up. At some point, Morad sat down toward the back of the police vehicle, but got back up. Morad's friends were yelling at Morad to put his hands up and get down.

After the second tase, it was hard for Sopheary D. to clearly see what was happening, but Morad seemed unaffected. He was still uncooperative and continued to resist. Hernandez had his service weapon in his hand and was facing Morad, standing at "arm's length" from him, in front of the police vehicle. Morad's back was to Sopheary D. and the police vehicle was obstructing her view of his arms and hands, but Morad was just standing there "confused." She then heard four gun shots and saw Morad fall to the ground.

¹⁵ David J. estimated approximately two minutes between the time he heard the initial scuffling to the shots being fired.

¹⁶ Sopheary D.'s window is approximately 40 to 50 yards from Morad and Hernandez.

Statement of Mony D.

On May 27, 2015, at approximately 7:15 p.m., Mony D. was washing dishes in his apartment when he heard a window breaking. Mony D. looked outside his kitchen window and saw “something black” coming out of a second floor window.¹⁷ He heard someone say, “Call the paramedics,” and saw the top of three people’s heads. Mony D. then saw Morad walking around in the alley. Morad looked disoriented and “was on some type of drug or something.” Morad walked around for approximately ten minutes and kept saying, “Lets wrestle.” Morad also jumped on and off of cars, sat down and got back up. Morad was not being aggressive, but was not listening.

Hernandez arrived and repeatedly told Morad to put his hands up. Morad looked like a zombie and would not listen. Hernandez tased Morad, but it appeared to have no effect on Morad. Hernandez tased Morad a second time, but again it had no effect. Hernandez tried to physically subdue Morad, but was unable to do so. Hernandez drew his firearm and told Morad, “I’m going to fucking shoot you.” Morad “kind of stopped” and focused on Hernandez and the gun for a few seconds, then continued to walk around.

Hernandez told Morad to sit down. Morad sat down, but got back up. Hernandez tried to push Morad down, but Morad was able to get up. It looked like Morad was standing on the hood of the patrol vehicle. Morad turned around and brought his hands up, but then brought them back down. At that point, Hernandez shot Morad four or five times. Morad fell down after he was shot, but stood back up, then fell back down again.

Statement of Karen A.

On May 27, 2015, Karen A. was told by a neighbor that there was someone in the alley covered in blood and jumping on parked vehicles. Karen A. heard a commotion and saw Hernandez yelling at Morad, “Stop and put your arms up!”¹⁸ Morad was covered in blood and appeared to be under the influence of drugs. Morad would not comply, turned around and walked toward Hernandez. Hernandez told Morad to put his arms up. Morad put his arms up, but quickly put them back down. Hernandez approached Morad in an attempt to restrain him, but Morad “swatted” Hernandez’s arm away, while mumbling incoherently. Hernandez retrieved and deployed his Taser at Morad, but Morad had no reaction.

A few seconds later, Hernandez grabbed Morad while he was moving, and brought him down to the ground directly behind the police vehicle. Hernandez tried to retrieve his handcuffs, but Morad broke free and got up. Hernandez was trying to contain Morad while keeping a distance from him, but Morad was not responding to his commands or physical attempts to take him into custody. At one point, Morad advanced toward Hernandez and Hernandez placed his arm between them to keep an “arm’s distance” between them. Morad was walking aimlessly and it appeared he did not comprehend what was happening.

¹⁷ Mony D. made his observations from the same apartment as Sopheary D.

¹⁸ Karen A.’s house is northwest from where the police vehicle was parked.

Hernandez picked up the Taser cartridge, which had fallen on the ground, and yelled, “Get on the ground! Get on the ground!” Morad still would not listen. When Hernandez retrieved his Taser or his gun, Morad reacted by stretching out his arms and saying something like, “There it is.” At this point, Karen A. moved into a position to take cover and could no longer see Hernandez or Morad, but heard the sound of the Taser deploying a second time, and within 30 seconds, the sound of four gunshots.

Statement of Kelsie C.

On May 27, 2015, Kelsie C. was inside her residence located on Roycroft Avenue when she heard screams coming from the alley.¹⁹ She exited her home, went to the rear fence and began recording the incident on her cell phone. Hernandez was yelling at Morad, “Get down! Get down! Get down on your stomach!” Hernandez and Morad were approximately 15 to 20 yards from where she was standing. There were also several LBFD personnel in the alley who appeared to be standing by.

Hernandez and Morad were “going in circles” around the patrol vehicle, which was parked in the alley. Hernandez told Morad to get down on the ground approximately ten times, but Morad would not comply and was being violent toward Hernandez. Morad continually advanced toward Hernandez, while Hernandez attempted to contain Morad in order to keep everyone safe. Kelsie C. was concerned for the safety of Hernandez and feared that Morad would hurt him or some of the bystanders. Kelsie C. believed the situation was violent and Morad was not behaving like a “normal person.” Kelsie C. was surprised that there were no other police officers at the scene assisting Hernandez.

At one point, fire personnel told her to get down, so she ducked down behind the fence. She then heard four gunshots.²⁰ She subsequently saw Morad placed into an ambulance and taken away by paramedics.²¹

¹⁹ Kelsie C.’s home is located on the west side of Roycroft Avenue. Her backyard has a view of the T-intersection of the alley where the incident occurred.

²⁰ Kelsie C. estimated the time lapse from when she first heard Hernandez yell, “Get down!” to the time she heard the gunshots was approximately 30 seconds.

²¹ Kelsie C. captured 55 seconds of video footage on her cell phone. The video appears to have been recorded behind a wall and trees, which obstructed the view of the incident. It briefly shows firefighters and bystanders standing in the area and Hernandez walking, while yelling orders. The recording did not capture the shooting. However, the following audio was recorded:

LBFD PERSONNEL: “Get back, get back! ... Get back, get back!”

HERNANDEZ: “Roll over on your stomach! Get down! Get down on the ground!
(Unintelligible yelling in background and mumbling sound) Get down! Get
down! Get down on the ground! Get down! Get down!” (Four gunshots).
Code 3! I need a perimeter!”

Statement of LBFD Captain Robert Grego

On May 27, 2015, LBFD Captain Robert Grego was dispatched to [REDACTED] East 15th Street, regarding an “altered patient” that had fallen out of a window. Grego saw three “kids,” Morad, Ryan F., Kamiran D., and Hernandez at the location when he and his crew arrived. Hernandez was raising his voice, which led Grego to believe that something unusual was transpiring.²² Morad was not wearing a shirt, was bleeding from his head and had blood on his hands.

Grego approached Hernandez and asked if he needed assistance, but Hernandez did not respond. Hernandez was facing Grego’s direction and Morad was facing away from Grego, approximately 20 feet away. Hernandez attempted to tase Morad, but it appeared that one of the electrodes did not make contact. Hernandez seemed upset at himself because of the failed attempt. Morad appeared to be altered, but Grego was not sure if it was due to the fall from the window or if Morad was under the influence, but he was displaying typical behavior of someone under the influence of drugs.

Hernandez was giving commands to Morad. Morad was “kind of doing it,” but was acting very strange and doing odd things with his hands. Morad was not being aggressive. Hernandez told Morad he wanted to help him. Morad reached up and touched Hernandez on the shoulder. Hernandez knocked Morad’s hand away and said, “Back off! Don’t touch me!” Morad turned around and was acting very lethargic. Hernandez told Morad to get on the ground, but Morad was not paying attention. Grego asked Hernandez, “Hey, do you need any help?” Grego told Hernandez to let him and his crew take Morad down for him, but Hernandez did not acknowledge him. Hernandez tried to tase Morad a second time, but it was ineffective. It appeared Morad did not know he was tased. Grego got on his radio to LBFD dispatch and advised that a police officer was involved in an altercation and requested “backup, Code 3.”²³

Morad was not being violent or aggressive, but was not following directions. Hernandez kept telling Morad to get on the ground. Morad got on the ground, but got right back up. Grego was “shocked” when Hernandez drew his firearm, as Morad was “just standing there.” Grego told Hernandez, “Hey, don’t shoot him.” Ryan F. and Kamiran D. also stated, “Please, don’t shoot him!”²⁴

Hernandez told Morad he was going to shoot him and to get on the ground. Hernandez warned Morad multiple times that he was going to shoot him, but Morad would not follow directions. Morad turned around, faced the police vehicle and appeared to put his hands on the hood. Hernandez had his gun in his right hand and walked over to Morad, grabbed him from the back of his pants and pulled him down forcefully. Morad fell to the ground and Hernandez told him to get on his stomach. Morad got on his stomach and Hernandez approached him from behind, but Morad stood up again so Hernandez was unable to handcuff him.

²² Grego stated he was surprised Hernandez was at the location when he and his crew arrived. It was unusual for a police officer to be involved in that type of call, as LBFD would normally handle such calls. Grego further stated he had been to several similar calls with police and they did not engage in that type of call. Grego assumed Hernandez engaged because he was the first to arrive on scene and was “trying to help the situation.”

²³ “Code 3” means to respond with lights and sirens to a location.

²⁴ Grego believed Hernandez was so focused on what he was doing that he was not able to acknowledge Grego and his crew were at the location. Hernandez never made eye contact with them throughout the entire altercation.

Morad was walking around and doing odd things, but was not being aggressive toward Hernandez. Morad did not try to attack or swing at Hernandez. Hernandez kept telling Morad to get down on his “belly,” but Morad was not listening. Morad eventually got down on one knee in front of the police vehicle and was fidgeting with his hands. While Morad was down on one knee, Hernandez fired three rounds at him, from a distance of approximately three to four feet. Grego was approximately 15 to 20 feet behind Hernandez when the shooting occurred and was facing Morad. Grego did not see Morad make any movements toward his waistband, nor did he see Morad holding anything in his hands during the incident.²⁵

Statement of LBFD Firefighter Jon Robnett

On May 27, 2015, LBFD Firefighter Jon Robnett was dispatched to [REDACTED] East 15th Street, regarding a 22-year old male with a traumatic injury in an altered state. Robnett remembers they first received a pre-recorded dispatch indicating Morad had sustained an injury from a traumatic fall. An updated broadcast was subsequently received indicating a “Code 3,” requesting LBFD Rescue 8 to the location. As they approached the location, Robnett was checking the numbers on the residences and realized he passed the location. Robnett continued driving on 15th Street, made a U-turn and saw a woman standing in the north/south alley. Robnett, along with Grego, Firefighter/Paramedic Nektarios Markquizes, and Firefighter Chris Bradford, exited the firetruck and began to walk southbound in the north/south alley, west of Roycroft Avenue. Grego contacted the woman who was standing in the alley and she directed them to the T-intersection in the alley.

As they approached the intersection, Robnett heard someone yelling, “Stop! Get down on your knees. Stop!” Hernandez was giving verbal commands to Morad, who was covered in blood with a significant laceration on his right shoulder. Robnett saw Ryan F. and Kamiran D. standing in the alley. Robnett heard them tell Morad to follow the commands given by Hernandez, but Morad was not complying. Morad was in an altered state, but Robnett could not determine if this was due to a medical condition or if Morad was under the influence. He was pacing around, speaking unintelligibly, moving his head and arms, and “twiddling” his fingers. Robnett was approximately 30 feet from Morad.

As Morad walked around and changed his direction, Hernandez followed him, maintaining his distance and safely monitoring him. Hernandez continued to give Morad loud, audible commands, but Morad was not responding. Robnett told Ryan F. and Kamiran D. to get back from the area and noticed they both had blood on their hands and clothes. Grego called dispatch to request assistance for Hernandez.

Hernandez drew his Taser from its holster and gave verbal commands to Morad, indicating he would tase him. Morad continued to walk around, “babbling, looking around in space.” Hernandez deployed his Taser at Morad from a distance of approximately five feet, but it had no effect on Morad. Morad continued to walk around, turning directions, and babbling. Hernandez

²⁵ Grego believed Hernandez was never “in trouble” to the extent where he needed LBFD personnel to intervene. If he were, they would have “engaged for sure.” Grego stated, “The kid never aggressively went after the officer...If that guy needed help, trust me, we would’ve been the first ones to help him. There was no time where it ever felt that he was in any type of danger. The kid wasn’t listening to him, but he wasn’t threatening the officer.”

gave additional commands, “Get down! Get down on your knees!” while maintaining a safe distance. Hernandez then reached for another Taser cartridge and reloaded the Taser. Robnett told bystanders in the alley to get back while Hernandez continued to give Morad verbal commands. Hernandez tased Morad a second time, with no effect.

Hernandez holstered his Taser and retrieved his service weapon. Hernandez told Morad to get down on his knees or he would shoot him. Hernandez attempted to “grab” Morad in order to handcuff him, but Morad resisted and Hernandez was unsuccessful. Morad was still babbling and not making eye contact. Ryan F. and Kamiran D. had returned to the scene and Robnett told them to back away. At this time, Hernandez and Morad were at the back of the police vehicle. Morad was still walking around and Hernandez had his gun drawn, telling Morad to stop or he was going to shoot. Robnett heard several people around the area yelling, “Don’t shoot him!”

Ryan F. and Kamiran D. came back around the alley and Robnett turned around to tell them to go back. Robnett heard one gunshot, quickly looked back, and saw Hernandez fire two more shots in quick succession. Morad fell to the ground on his knees and onto his back on the passenger side of the police vehicle.²⁶ At the time the shots were fired, Morad was approximately five feet away from Hernandez.

Throughout the incident, Hernandez attempted to maintain his distance from Morad. Hernandez attempted to physically restrain Morad after two attempts at tasing had failed. Hernandez attempted to take Morad to the ground, but Morad pulled his hands away. Hernandez was covered in blood from several attempts to restrain Morad.

After the shooting, Hernandez immediately broadcast on his radio that shots were fired. LBFD Rescue 8 arrived at the location and administered medical aid to Morad. Morad was transported to the hospital by paramedics.

Statement of LBFD Firefighter Nektarios Markquizos

On May 27, 2015, LBFD Firefighter Nektarios Markquizos was dispatched to [REDACTED] East 15th Street, regarding a subject that fell out a window with possible injuries. Markquizos was accompanied by Captain Robert Grego, Engineer Chris Robnett, and Firefighter Chris Bradford.

When their engine arrived at the location, a woman told them the incident was in the alley. They walked southbound down the alley from 15th Street, west of Roycroft Avenue. Markquizos heard a loud voice repeatedly saying, “Get down. Get down!” As Markquizos arrived at the T-intersection to the alleys, he observed Hernandez with his Taser in his hand.²⁷ Morad and Hernandez were walking around the patrol vehicle approximately three to four feet from each other. Morad was shirtless and bloody from his neckline to his waistline.

Hernandez continually gave commands to Morad, but Morad would not comply. Hernandez deployed his Taser on Morad, but it had no effect. The exchange between Hernandez and Morad

²⁶ After the first gunshot, Robnett saw Morad “on his way to the ground, or down” then the second and third shots were fired.

²⁷ Marquizos was approximately 25 to 30 feet from Hernandez and Morad when he made his observations.

continued with Hernandez still giving commands to Morad and Morad failing to comply, walking around the general area, and speaking unintelligibly. Hernandez then deployed his Taser a second time, again with no effect on Morad.

At one point, Hernandez physically brought Morad to the ground, but Morad “popped right back up.”²⁸ After Morad got up, Hernandez retreated a few feet to gain some distance and continued giving Morad commands to get down, but Morad ignored his commands. Morad walked to the passenger side of the patrol vehicle and “fiddled around” with the windshield wiper. He then moved to the front passenger door and “fiddled” with that.²⁹

Hernandez and Morad were eventually in front of the patrol vehicle, toward the passenger side. Hernandez gave additional commands and ultimately fired approximately three rounds at Morad. The distance between Hernandez and Morad at the time of the shooting was approximately four feet.³⁰ After the shooting, Morad fell to his knees and then to the ground.³¹

9-1-1 and Radio Calls

On May 27, 2015, at 7:26 p.m., Brianna D. called 9-1-1 requesting paramedics and police respond to [REDACTED] East 15th Street. She was directed to LBFD and advised the operator there was a man in the alley between 14th Street and 15th Street who was intoxicated and had fallen from a second story window. She stated he was bleeding from his arm and torso, and was acting irate and a little violent.

LBFD dispatch called LBPD requesting their assistance in the call. The following conversation took place:

LBPD: Police Department. This is Cameron. How can I help you?

LBFD: Hi Cameron. Can we get you guys to respond out with us to [REDACTED] East 15th Street? It will be the alley, rear.

LBPD: What’s going on there?

LBFD: We have a 20-year-old male. He fell off a second story window. The calling party did advise that he is drunk and he is violent and he’s

²⁸ Markquijos stated he saw the strength of Morad when he got up from the ground after Hernandez took him down. He has seen people with unusual strength when under the influence and believed Morad was under the influence.

²⁹ Markquijos overheard Grego contact fire dispatch and request additional police personnel. Markquijos said it seemed Grego felt Hernandez needed assistance with Morad.

³⁰ Markquijos could not recall what Morad was doing with his hands or whether Morad was moving just prior to the shooting.

³¹ At some point prior to the shooting, Markquijos heard Grego say, “Don’t shoot!” When asked why the Fire Department did not intervene in assisting Hernandez with “taking Morad down,” Markquijos stated they were never instructed by the captain to do so and there was a weapon involved. Marquijos opined that throughout the incident, Morad was not aggressive and he did not think Hernandez was being “attacked.”

bleeding heavily. So she just said that she wanted PD out because he's screaming and just acting erratic.

LBPD: Okay. So he's very drunk. He's violent.

LBFD: Yeah, and he fell off of a second story window.

LBPD: Gotcha. No Weapons?

LBFD: No weapons.

LBPD: Okay. Alley, rear of [REDACTED] East 15th. You guys are en route?

LBFD: Yes.

LBPD: Okay

LBFD: Thank you.

At 7:35 p.m., LBFD Engine 14, Captain Grego, contacted LBFD dispatch stating, "Fire, contact PD dispatch. We got a [sic] officer needs help. We have a patient, uncooperative. He's trying to tase him. He's having trouble getting to his radio. So, send PD Code 3 to our location."

Scene Evidence

Hernandez's black and white patrol car was parked facing eastbound in the alley behind [REDACTED] East 15th Street. There were four firearm cartridge cases in the alley north of the patrol car. There was a Taser on the trunk of the patrol car and Taser wires around the patrol car.

The west facing second story window of Apartment "D" at [REDACTED] East 15th Street was broken. Broken glass and small red drops were on the west walkway that leads to the alley. The interior of Apartment "D" was damaged throughout. The hand railing on the stairway was pulled from the wall, mini blinds were damaged, and items were scattered about.

A brick wall separating apartment buildings [REDACTED] East 15th Street and [REDACTED] East 15th Street contained red stains, as well as the north wall of the garage, and a west pedestrian door of the garage. The south wall of the apartment building at [REDACTED] East 15th Street and two vehicles parked in the driveway also had red stains on them.

Firearms/Taser Evidence

Hernandez was armed with a Heckler & Koch .45 semiautomatic pistol. The pistol had a 12 round capacity magazine. After the incident the firearm was examined and contained seven cartridges in the magazine, and one stove piped live round in the chamber, which is consistent with Hernandez firing four rounds.

Hernandez was also armed with a black Taser Model X26. The Taser log indicated the trigger was pulled twice, at 7:34:49 and 7:35:29, each for a five-second cycle.

Autopsy

On June 3, 2015, Deputy Medical Examiner Ajay J. Panchal, M.D., performed an autopsy on Morad. Dr. Panchal ascribed the cause of death to multiple gunshot wounds. Morad had six gunshot wounds with the following entry/exit and direction or trajectory:³²

- Gunshot wound #1 to the chest, with a right to left, front to back, downward direction. The projectile was recovered in soft tissue near L3 vertebra on left side.
- Gunshot wound #2 to the anterior torso, with a left to right, front to back and downward direction. The projectile was recovered in soft tissue near the right 12th rib.
- Gunshot wound #3 to the right torso, with a right to left and downward direction with an exit through the right torso.
- Gunshot wound #4 to the distal right upper extremity, in a right to left direction with an exit through the distal right upper extremity.
- Gunshot wound #5 to the distal right upper extremity, in a right to left direction with an exit to the distal right upper extremity.
- Gunshot wound #6 to the left hand, in a left to right, back to front, slightly upward direction with an exit through the palmar aspect of left hand.³³

³² The gunshot wounds are arbitrarily numbered for identification and do not indicate the sequence in which they were sustained.

³³ On June 13, 2017, Dr. Panchal was interviewed by the District Attorney's Office and investigators from the Long Beach Police Department. The purpose of the interview was to discuss the trajectory of the gunshot wounds. Dr. Panchal stated that during an autopsy, there is no absolute certainty in determining the body's position at the time they sustain a gunshot wound as there are many variables that come into play. Dr. Panchal reviewed several autopsy photos and was presented with a hypothetical in which Morad, at five foot nine inches tall, was standing with his arms in a fighting stance with his elbows at 90 degrees in front of his body, approximately eight feet from Hernandez, who is five foot seven inches tall, at the time of the shooting. Dr. Panchal opined that the gunshot wounds are consistent with the hypothetical presented. With respect to gunshot wounds numbers 4, 5, and 6, Dr. Panchal explained that they have a parallel path and are consistent with Morad being in a standing position, as well as his elbows being bent at 90 degrees. Dr. Panchal stated that if Morad was kneeling at the time he was shot, Dr. Panchal would not expect to see that type of parallel path. It would not be impossible to sustain those wounds, but it is unlikely as Morad would have to have been leaning back with his arms against his body in an unnatural position to have this trajectory. Dr. Panchal further stated that although gunshot wounds numbers 1 and 2 have a slightly downward trajectory, he would expect to see a far greater downward angle if Morad had been kneeling when he sustained those wounds. During a later interview, Dr. Panchal added, with respect to the number of gunshots believed to have been fired (4) and the number of wounds he documented (6), unless there is irregularity to a gunshot wound, he would not be able to differentiate between an entry wound and a re-entry wound. Since he observed no irregularities to the wounds, he cannot determine how many of the wounds he documented, if any, are re-entry wounds. He stated Morad had through and through wounds to his arms, but Dr. Panchal cannot determine whether the gunshot wounds to the torso are re-entry wounds.

Timeline

Utilizing LBDP and LBFD audio recording time stamps, electronic logs from Hernandez's Taser, as well as Hernandez's radio time stamps, the following timeline of events was compiled:

Hernandez on scene:	7:34:44 p.m.
Hernandez gives updated location:	7:35:01 p.m.
Hernandez ends previous transmission:	7:35:11 p.m.
Hernandez turns Taser on:	7:35:17 p.m.
Hernandez discharges Taser:	7:35:32 p.m.
Hernandez turns off Taser:	7:35:45 p.m.
Engine 14 (Grego) requests help for Hernandez via radio:	7:35:47 p.m.
Hernandez turns Taser on:	7:35:59 p.m.
LBFD dispatch notifies PD officer needs assistance:	7:36:08 p.m.
Hernandez discharges Taser:	7:36:12 p.m.
Hernandez asks for unit Code 3:	7:36:27 p.m.
Hernandez discharges his firearm:	7:37:03 p.m. ³⁵

LEGAL ANALYSIS

In California, a conviction for murder requires that the defendant kill a person with "malice aforethought" and without lawful excuse. CALCRIM No. 520; Penal Code section 187. "Malice aforethought" means either an express intent to kill or the knowing commission of a deadly action with conscious disregard for human life. CALCRIM No. 520.

California law permits any person to use deadly force in self-defense or in the defense of others if that person actually and reasonably believes that he or others are in imminent danger of great bodily injury or death. Penal Code § 197; CALCRIM No. 505; *See also* People v. Randle (2005) 35 Cal.4th 987, 994 (overruled on another ground in People v. Chun (2009) 45 Cal.4th 1172, 1201); People v. Humphrey (1996) 13 Cal.4th 1073, 1082. In protecting himself or another, a person may use all the force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. CALCRIM No. 3470; *See* Plumhoff v. Richard (2014) 134 S.Ct. 2012, 2022 (if a shooting is justified, officers need not stop shooting until the threat has ended). Actual danger is not necessary to justify the use of deadly force in self-defense; if the person's beliefs were reasonable, the danger does not need to have actually existed. CALCRIM No. 3470.

If a person actually believes that deadly force is necessary for self-defense or in defense of another, but that belief is unreasonable, the killing is partially justified and the killer may not be convicted of murder; however, he may be convicted of voluntary manslaughter. Penal Code section 192(a); CALCRIM No. 571; *See also* People v. Blakeley (2000) 23 Cal.4th 982, 999; In

³⁵ The exact time the shot was fired was determined using Audacity Software and the calculated time difference between the shot being fired and the subsequent request for Code 3 assistance.

re Christian S. (1994) 7 Cal.4th 768; People v. Flannel (1979) 25 Cal.3d 668; People v. Barton (1995) 12 Cal.4th 186, 199.

When assessing the reasonableness of the use of deadly force, a jury must “consider all the circumstances as they were known to and appeared to the defendant and consider what a reasonable person in a similar situation with a similar knowledge would have believed.”

CALCRIM No. 505. “Although the belief in the need to defend must be objectively reasonable, a jury must consider what ‘would appear to be necessary to a reasonable person in a similar situation and with similar knowledge.’” People v. Humphrey, *supra*, 13 Cal.4th at 1082-83. This rule allows a defendant to present evidence of his past experiences to both: 1) explain how they impacted his actual, subjective, perception of danger, and 2) to help the jury understand the objective reasonableness of that belief from the defendant’s perspective. See People v. Sotelo-Urena (2016) 4 Cal.App.5th 732 (allowing defense evidence of a homeless person’s exposure to, and fear of, violence on the streets in a murder prosecution); People v. Humphrey, *supra*, 13 Cal.4th 1073 (allowing defense evidence of domestic violence and its effects in a murder prosecution). This enables a jury who is assessing the conduct of a law enforcement officer “to evaluate the conduct of a reasonable person functioning as a police officer in a stressful situation – but this is not the same as following a special ‘reasonable police officer’ standard.” People v. Mehserle (2012) 206 Cal.App.4th 1125, 1146.

“The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight... The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.” Graham v. Connor (1989) 490 U.S. 386, 396-397.

The test of whether the officer’s actions were objectively reasonable is “highly deferential to the police officer’s need to protect himself and others.” Munoz v. City of Union City (2004) 120 Cal. App.4th 1077, 1102. “Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety.” People v. Collins (1961) 189 Cal. App.2d 575, 589.

The Supreme Court in Graham held, “[D]etermining whether the force used to effect a particular seizure is ‘reasonable’ under the Fourth Amendment requires a careful balancing of ‘the nature and quality of the intrusion on the individual’s Fourth Amendment interests’ against the countervailing governmental interests at stake.” The Graham court also held that “the test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application” instead “its proper application requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.” Graham v. Connor, *supra*, 490 U.S. 386, 396.

The prosecution has the burden of proving beyond a reasonable doubt that a killing was not justified. CALCRIM Nos. 505, 507. Thus, to bring a murder charge against a defendant in the face of a claim of self-defense, the prosecution must be able to prove beyond a reasonable doubt that the killer did not actually believe that the decedent posed an imminent threat when the defendant killed him. To bring a charge of voluntary manslaughter, the prosecution must be able to prove beyond a reasonable doubt that the killer's belief in the need for self-defense, though honest, was not objectively reasonable at the time of the killing.

Before a jury can rely on circumstantial evidence to find a person guilty, the jury must be convinced that the only reasonable conclusion supported by the circumstantial evidence is that the accused person is guilty. "If you can draw two or more reasonable conclusions from the circumstantial evidence, and one of those reasonable conclusions points to innocence and another to guilt, you must accept the one that points to innocence." CALCRIM No. 224.

A. Did Officer Hernandez actually believe that deadly force was necessary for self-defense or in defense of another?

In this case, Officer Hernandez was responding to a call requesting assistance with a violent person who had fallen out a second story window. Upon arrival, Hernandez observed Morad, who was visibly injured, but not incapacitated. Rather, Morad appeared to be in an altered state and in constant movement. Upon observing Hernandez, Morad immediately turned in his direction and advanced toward him. Hernandez was thus placed in a defensive posture from the point of arrival. He exited his vehicle and had only the opportunity to retrieve his flashlight, and not his baton, before Morad was nearly upon him.

Hernandez immediately began giving Morad verbal commands to stop and put his hands up, but Morad was non-compliant. It soon became apparent that Morad was under the influence of an unknown intoxicant. Hernandez therefore had reason to believe that Morad was not only injured from his fall and in need of medical assistance, but also committing a criminal offense and subject to lawful arrest. Hernandez, as the only officer on scene, had a duty to detain Morad to place him under arrest and prevent him from further injuring himself and/or others.

Hernandez provided a very detailed description of his encounter with Morad and many of the facts he described are corroborated by other witnesses at the scene. There is no dispute that Morad appeared to be under the influence or that Hernandez gave Morad numerous commands throughout the entire incident, but Morad was never compliant. There is also no dispute that Hernandez made attempts to subdue Morad using various non-lethal means, including deploying his Taser twice at Morad, to no avail, and physically taking him down on more than one occasion, only to have Morad break free and get back up. Witnesses further corroborate that Hernandez attempted to keep his distance from Morad by backing away from Morad and tried to handcuff Morad at one point, but dropped the handcuffs during the struggle.

Other aspects of Hernandez's account are not as clearly corroborated. Hernandez's description of events is one of a violent encounter in which he feared he was being assaulted. Hernandez said he failed to de-cock the thumb-safety to his gun and that he dropped his Taser and cartridge

during the encounter, which are indicative of his nervousness and fear. He stated Morad had clenched fists and swung his arms in a violent manner in his direction and repeatedly aggressively advanced toward him. Hernandez further stated he believed if he were to get involved in a “full-blown, knock-down, drag out, street fight” with Morad, [Hernandez] would be injured, Morad would overpower him, disarm him and kill him with his hands, or his own service weapon. He added, “Morad had proven over the course of the incident that he had an extremely high tolerance for pain, the ability to continue fighting despite being injured, the physical strength to prevent [Hernandez] from taking him into custody and a high level of stamina to continue to resist throughout the encounter.”

Just prior to the shooting, Hernandez stated Morad raised his hands into a “classic” fighting position with his closed fists turned upward near the bottom of his chin and described Morad’s facial expression as angry. Hernandez told Morad to stop and put his hands up, while pointing his service weapon at Morad, and warned he would shoot him if he did not comply. Morad did not respond and walked quickly and aggressively toward Hernandez with his hands in a fighting position. Hernandez also stated Morad yelled at him, in a clear and angry tone, “I’m coming to get you!” as he continued advancing toward Hernandez. When Morad came closer to Hernandez, Hernandez fired several rounds at Morad.

Numerous witnesses observed the encounter between Hernandez and Morad at different times and from various vantage points. Since individuals witnessing an encounter do not always perceive it in the same manner, it is not surprising that there are various accounts, descriptions and characterizations of what occurred.

Brianna D., who called 9-1-1, described Morad as appearing “completely enraged,” and “out of control.” She stated she and her friends ran back to her apartment in fear for their safety when Morad turned his attention to them and began to approach them. Marshaun J., who witnessed the incident from her backyard, said Morad “kind of tackled” Hernandez at the back of the patrol car and appeared as though he were “in a fight for his life and had to keep going,” kept “going after” Hernandez, and “aggressively” advanced toward Hernandez. She further stated, “If I was that officer, I would have shot him too,” as he appeared to be very “dangerous” and could have threatened her or someone else.

David J., Marshaun’s ex-husband, said Morad pushed Hernandez into the back of the police vehicle, became more aggressive after the second tase and said, “Oh, is that how it’s going to be?” He further stated Hernandez was trying to fight back while distancing himself from Morad. David J. added that he was so concerned about Hernandez that he considered intervening to assist him. Just prior to the shooting, David J. said he observed Morad “wince” when Hernandez pointed his firearm at him from a distance of approximately three feet, but continued moving forward toward Hernandez.

These witnesses perceived the encounter between Morad and Hernandez as a dangerous one in which Hernandez would arguably have been justified in believing he was in imminent danger of death or great bodily injury at the time he fired his weapon. However, other witnesses describe a different type of encounter. The most troubling account is that of Captain Robert Grego. Grego was at the scene in close proximity to Hernandez and Morad and witnessed the entire incident. He stated Morad was not following directions, but was not being violent or aggressive toward

Hernandez. He said he was in shock when Hernandez retrieved his firearm, as Morad was “just standing there.” He further stated that he and his crew would have intervened had he felt Hernandez was in danger, although he did call for backup to assist Hernandez during the struggle and requested they respond Code 3. Most significantly, Grego stated Morad was down on one knee fidgeting with his hands when Hernandez shot him.

Like Grego, other witnesses, such as Firefighter Nektarios Marquizos, also opined that throughout the incident Morad was not being aggressive. Marquizos stated he did not believe Hernandez was being “attacked.” Kamiran D. stated Morad was not trying to “aggress” anyone and was walking around aimlessly in a non-threatening manner. Ryan F. said Morad “was not acting violent or aggressively toward anyone,” despite the fact Morad had bitten him prior to Hernandez’s arrival. Although these witnesses characterize Morad’s demeanor and actions more consistently with Grego’s characterization, Grego is the only witness who places Morad in a kneeling position at the time of the shooting.

Firefighter Jon Robnett, who was present with Grego throughout the entire incident, stated Morad fell to his knee *after* the initial shot. Sopheary D., who was watching the incident from her apartment window, stated Hernandez had his service weapon in his hand and was facing Morad, standing at arm’s length from him, in front of the police vehicle. Morad’s back was to Sopheary D. and the police vehicle was obstructing her view of his arms and hands, but she could see he was standing and fell to the ground after she heard four gun shots. Mony D. stated just prior to the shooting, Morad turned around and brought his hands up, but then brought them back down. Hernandez then shot Morad four or five times. Morad fell down after he was shot, stood back up, and fell back down again.

Although the gunshot wounds are described as having a “downward” direction, as Dr. Panchal explained, there are many unknown variables that could affect the direction of a gunshot wound. Dr. Panchal noted that although the gunshot wounds to Morad’s torso had a slightly downward trajectory, Dr. Panchal would expect to see a greater downward angle if Morad were kneeling at the time he sustained those wounds. Moreover, in examining the gunshot wounds to Morad’s arms and hand, Dr. Panchal found those wounds to be more consistent with Morad being in a standing position, with his elbows bent at 90 degrees as described by Hernandez, as opposed to a kneeling position, since the wounds had a parallel path. If Morad were kneeling, Dr. Panchal would not expect to see a parallel path to those wounds.

Given the nature of the gunshot wounds, as well as the observations of the witnesses who observed Morad when he was shot and placed him in a standing position, the statement of Grego with respect to Morad’s position at the time of the shooting cannot be given much weight. Moreover, because much of the evidence supports Hernandez’s claim that he was overpowered by Morad, who repeatedly advanced toward him in an aggressive manner, and that even after Hernandez pointed his weapon at Morad from a short distance away, Morad continued to advance toward him while in a fighting stance, the evidence supports the conclusion that Hernandez actually and honestly believed he was in imminent danger of death or great bodily injury at the time he fired his weapon. This honest and actual belief precludes a prosecution for murder.

B. Was Officer Hernandez's belief in the need to use deadly force for self-defense or in defense of another objectively reasonable?

The question remains whether Hernandez's belief in the need for self-defense was objectively reasonable under the circumstances. Would it appear to be necessary to a reasonable person in a similar situation and with similar knowledge? Since Morad was unarmed and visibly injured, an argument can be made that Hernandez could have resorted to other means. He could have retreated to a position of safety, called for backup or attempted to contain Morad until additional officers arrived to assist in taking him into custody. He could have waited until Morad became tired and no longer resisted. He could have asked the firefighters who were standing by to assist, an option which was readily available to him, but never exercised. However, as the court stated in People v. Collins, *supra*, 189 Cal.App.2d 575, 589, "Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety."

Although Morad was unarmed and injured, he was clearly under the influence of an unknown substance and exhibited a great deal of strength and stamina, as well as an unwillingness or inability to comply with the most basic commands. In addition, as described by many of the witnesses, Hernandez did in fact attempt to maintain a safe distance between himself and Morad, but Morad persistently pursued him placing Hernandez in a defensive posture throughout the entire encounter. Moreover, Hernandez made numerous attempts at employing various non-lethal options to subdue Morad, all to no avail, and it is reasonable to conclude from many witnesses' accounts that Hernandez, who was unable to physically keep Morad down, was overpowered. As such, a reasonable trier of fact may find that, having exhausted all non-lethal options available to him at that moment, and as the solo officer on scene, Hernandez's decision to use deadly force was arguably reasonable to prevent Morad from assaulting him and potentially disarming and killing him or others.

Therefore, under the totality of the circumstances, the People cannot prove beyond a reasonable doubt that Hernandez's belief in the need for self-defense was not objectively reasonable at the time of the shooting, thus precluding a prosecution for voluntary manslaughter.

CONCLUSION

Based on the foregoing, we find that Officer Matthew Hernandez had an honest belief in the need for self-defense and defense of others when he used deadly force against Feras Morad. We further find that there is insufficient evidence to prove beyond a reasonable doubt that Officer Hernandez committed the crime of voluntary manslaughter with a firearm. We are closing our file and will take no further action in this matter.